

Pursuant to Section 214 of the Communications Act of 1934, as amended,¹ and Section 63.18(e)(2) of the Rules of the Federal Communications Commission (“Commission”),² Pinnacle Cellular Limited Partnership (“Applicant”) hereby requests global authority to provide international resale services to all international points.

Applicant is a limited partnership organized under the laws of Delaware. Ozark Cellular Corporation (“Ozark”), an indirect, wholly owned subsidiary of SBC Communications Inc. (“SBC”), holds a 50 percent general partnership interest in Applicant. Pine Bluff Cellular Services, Inc. (“PBCS”), a direct, wholly owned subsidiary of AT&T Wireless Services, Inc. (“ATTWS”), holds a 50 percent limited partnership interest.³ Applicant provides commercial mobile services in ten rural service areas in Arkansas and requests global authority to provide international resale services to its wireless customers.

Applicant has a number of foreign carrier affiliations, as defined in Section 63.09(e) of the Commission’s Rules,⁴ by virtue of SBC’s and ATTWS’s ownership interests in both Applicant and such foreign carriers, as the term “foreign carrier” is

¹ 47 U.S.C. § 214.

² 47 C.F.R. § 63.18(e)(2).

³ The partners are planning on unwinding the partnership in the near future. Ozark will receive the authorizations associated with the cellular systems for which Applicant is the licensee, including the international Section 214 authorization being requested in this application. Ozark also will receive Applicant’s controlling interest in Pine Bluff Cellular, Inc. Ozark and PBCS will divide the remainder of Applicant’s assets, including minority interests in other cellular carriers, between themselves. At the appropriate time, Applicant or its partners will make filings with respect to the unwinding of the partnership.

⁴ 47 C.F.R. § 63.09(e).

defined in the Commission's Rules.⁵ Through SBC's ownership interests, Applicant is affiliated with a total of 24 carriers in Austria, Belgium (two), Canada, Czech Republic, Denmark, Germany (two), Great Britain, Greece, Hong Kong, Hungary, Italy, Japan, Lithuania, the Netherlands, Norway, Portugal, Singapore, South Africa, Spain, Sweden, and Switzerland (two). Through ATTWS, Applicant is affiliated with a total of twelve carriers in Antigua & Barbuda; Barbados; Bermuda; Canada; the Cayman Islands; Curaçao, Netherlands Antilles; Dominica; Grenada; India (two); Saint Lucia; and Saint Vincent & the Grenadines.

The Commission has determined that four of Applicant's foreign affiliates lack market power in their respective foreign markets. Twenty-eight other affiliates are entitled to a presumption that they lack market power. Consequently, Applicant requests that it be regulated as a nondominant carrier on the following routes where it is affiliated with non-dominant foreign carriers: United States-Antigua & Barbuda; United States-Austria; United States-Barbados; United States-Bermuda; United States-Canada; United States-the Cayman Islands; United States-Curaçao, Netherlands Antilles; United States-Czech Republic; United States-Dominica; United States-Germany; United States-Great Britain; United States-Greece; United States-Grenada; United States-Hong Kong; United States-Hungary; United States-India; United States-Italy; United States-Japan; United States-Lithuania; United States-the Netherlands; United States-Norway; United States-Portugal; United States-Saint Lucia; United States-Saint Vincent & the Grenadines;

⁵ See *id.* § 63.09(d).

United States-Singapore; United States-Spain; United States-Sweden; and United States-Switzerland.

Three of the remaining foreign affiliates of Applicant (Belgacom S.A., TDC A/S, and Telkom South Africa Ltd.) have not been declared non-dominant and are not entitled to a presumption that they lack market power.⁶ These carriers operate in Belgium, Denmark, and South Africa, each of which is a member of the World Trade Organization (“WTO”). To the extent Applicant has outbound international traffic on these three routes, it is provided over the facilities of unaffiliated U.S. carriers, thereby entitling Applicant to a presumption of non-dominance for outbound traffic on these routes.⁷ To the extent Applicant has inbound international traffic on these routes from its wireless customers who are roaming in Belgium, Denmark, and South Africa, this inbound traffic may be carried over the facilities of Applicant’s foreign affiliates.⁸ For such roaming traffic, Applicant agrees to classification as a dominant carrier on these routes.⁹

⁶ The last remaining affiliate, Proximus, a wireless carrier in Belgium, would be entitled to a presumption that it lacks market power, but Applicant’s affiliation with Belgacom S.A. makes Proximus’s status moot at this time.

⁷ See 47 C.F.R. § 63.10(a)(4).

⁸ The foreign wireless carriers on whose networks Applicant’s customers roam control the routing of this inbound traffic, to the extent there is any. Furthermore, Applicant cannot track the routing of this inbound traffic, so it does not know whether it is carried on the facilities of affiliated or unaffiliated entities.

⁹ However, as Applicant is a Commercial Mobile Radio Service (“CMRS”) carrier, as defined by Section 20.9 of the Commission’s Rules, 47 C.F.R. § 20.9, and merely resells the international switched services of other carriers, *see 2002 Biennial Regulatory Review*, Staff Report, 18 FCC Rcd. 4196, 4211 ¶ 36 (IB 2002) (“*2002 Biennial Regulatory Review Staff Report*”) (classifying such roaming services as resale), dominant carrier classification imposes no additional requirements on Applicant. *See* 47 C.F.R. § 43.61(c) (exempting CMRS carriers that provide international resale service from filing quarterly traffic reports).

RESPONSE TO QUESTION 9:

Applicant requests streamlined processing of this application. This application qualifies for streamlined processing pursuant to Section 63.12 of the Commission's Rules¹⁰ even though Applicant is affiliated with foreign carriers, within the meaning of Section 63.09(e),¹¹ in Antigua & Barbuda; Austria; Barbados; Belgium (two); Bermuda; Canada (two); the Cayman Islands; Curaçao, Netherlands Antilles; Czech Republic; Denmark; Dominica; Germany (two); Great Britain; Greece; Grenada; Hong Kong; Hungary; India (two); Italy; Japan; Lithuania; the Netherlands; Norway; Portugal; Saint Lucia; Saint Vincent & the Grenadines; Singapore; South Africa; Spain; Sweden; and Switzerland (two). As discussed in further detail below in the Response to Question 11, Applicant's affiliated foreign carriers in Antigua & Barbuda; Austria; Barbados; Bermuda; Canada; the Cayman Islands; Curaçao, Netherlands Antilles; Czech Republic; Dominica; Germany; Great Britain; Greece; Grenada; Hong Kong; Hungary; India; Italy; Japan; Lithuania; the Netherlands; Norway; Portugal; Saint Lucia; Saint Vincent & the Grenadines; Singapore; Spain; Sweden; and Switzerland lack a 50 percent market share in the international transport and local access markets in their countries. Therefore, Applicant is presumptively non-dominant with respect to the routes between the United States and those countries pursuant to Section 63.10(a)(3) of the Commission's Rules.¹² With respect to traffic with those countries, then, this application qualifies for

¹⁰ 47 C.F.R. § 63.12.

¹¹ *Id.* § 63.09(e).

¹² *Id.* § 63.10(a)(3).

streamlining under Section 63.12(c)(1)(ii).¹³ In addition, all of those countries are WTO members;¹⁴ and, to the extent Applicant has outbound international traffic with these countries, it consists of the resold service of unaffiliated U.S. carriers. Thus, with respect to that traffic, Applicant qualifies as non-dominant pursuant to Section 63.10(a)(4), and this application qualifies for streamlining under Section 63.12(c)(1)(iv) of the Commission's Rules.¹⁵

Applicant's remaining affiliated foreign carriers are in Belgium, Denmark, and South Africa, all of which are WTO members. As noted above in the introduction, Applicant qualifies for a presumption of non-dominance under Section 63.10(a)(4) of the Commission's Rules¹⁶ for any international traffic with these countries that is outbound and agrees to classification as a dominant carrier on these routes for any inbound traffic generated by its customers who are roaming in these countries. Accordingly, with respect to traffic with Belgium, Denmark, and South Africa, this application qualifies for

¹³ *Id.* § 63.12(c)(1)(ii).

¹⁴ *See In re Application of Cable & Wireless USA, Inc.*, Order, Authorization and Certificate, 15 FCC Rcd. 3050, 3052 ¶ 7 & n.14 (Telecomm. Div., IB 2000) (finding that the United Kingdom's WTO membership extends to Bermuda and deferring to the opinion expressed in Letter from Robert E. Dalton, Assistant Legal Adviser for Treaty Affairs, U. S. Department of State, to Rebecca Arbogast, Chief, Telecommunications Division, International Bureau, Federal Communications Commission, File No. ITC-214-19990709-00412, at 1 (Feb. 16, 2000) ("Dalton Letter"); Dalton Letter at 1 (stating that "the WTO Agreement applies to all British territories, including Bermuda and Gibraltar. The Office of the U.S. Trade Representative concurs in this view."). The Cayman Islands, like Bermuda, is a British overseas territory. *See* U.K. Foreign and Commonwealth Office, *Country Profile: Cayman Islands*, at <http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029394365&a=KCountryProfile&aid=1018965236708> (visited Oct. 16, 2003).

¹⁵ 47 C.F.R. §§ 63.10(a)(4), 63.12(c)(1)(iv).

¹⁶ *Id.* § 63.10(a)(4).

streamlining pursuant to either Section 63.12(c)(1)(iv) or Section 63.12(c)(1)(v) of the Commission's Rules.¹⁷

Therefore, for each of the routes between the United States and a country where Applicant has an affiliated foreign carrier and for all of those carriers, this application qualifies for streamlining under one or more provisions of Section 63.12(c)(1).¹⁸

RESPONSE TO QUESTION 10:

Applicant is not applying for authority to provide switched services over private lines pursuant to Section 63.16 of the Commission's Rules.¹⁹

RESPONSE TO QUESTION 11:

(i) Applicant certifies that, by virtue of the ownership interests of SBC or SBC's other subsidiaries, it is affiliated, as that term is defined in Section 63.09(e) of the

¹⁷ *Id.* § 63.12(c)(1)(iv)-(v).

¹⁸ In addition, the Commission previously has determined that certain of Applicant's affiliated foreign carriers lack market power in the countries where they operate. *See In re Southwestern Bell Communications Servs., Inc.*, Order, Authorization and Certificate, 15 FCC Rcd. 11718, 11726 ¶ 15 (Telecomm. Div., IB 2000) ("*SBCS Texas International 214 Order*") (Ameritech Communications International, Inc. in Canada and TDC-Norge f/k/a Internordia f/k/a ElTele Ost in Norway); *In re Applications of Ameritech Corp. & SBC Communications Inc.*, Memorandum Opinion and Order, 14 FCC Rcd. 14712, 14933-34 ¶¶ 537-38 (1999) ("*SBC/Ameritech Merger Order*") (Talkline GmbH in Germany (as well as the Netherlands, where Talkline GmbH no longer operates) and UAB Mobilios Telekomunikacijos ("Bité") in Lithuania), *vacated on other grounds*, *Ass'n of Communications Enters. v. FCC*, 235 F.3d 662 (D.C. Cir. 2001). Accordingly, this application also qualifies for streamlining pursuant to Section 63.12(c)(1)(i) of the Commission's Rules, 47 C.F.R. § 63.12(c)(1)(i), with respect to these carriers. Finally, Applicant's foreign affiliates in Antigua & Barbuda; Belgium (Proximus but not Belgacom S.A.); Bermuda; Canada (Rogers Wireless Communications, Inc. but not Ameritech Communications International, Inc.); the Cayman Islands; Curaçao, Netherlands Antilles; Dominica; Grenada; India (both); Lithuania; Saint Lucia; and Saint Vincent & the Grenadines only own mobile wireless facilities. With respect to those carriers, this application further qualifies for streamlining pursuant to Section 63.12(c)(1)(iii), 47 C.F.R. § 63.12(c)(1)(iii).

¹⁹ 47 C.F.R. § 63.16.

Commission's Rules,²⁰ with the following foreign carriers, as that term is defined in Section 63.09(d).²¹ (The carriers are listed in alphabetical order by home country.)

- (1) Belgacom Austria GmbH ("Belgacom Austria") (Austria). Belgacom Austria has entered the telecommunications market in Austria as a provider of international wholesale transmission services to other carriers and as a provider of data services. Belgacom S.A. wholly owns Belgacom Austria. Therefore, through SBC's indirect 34 percent interest in Belgacom S.A.,²² SBC also holds an indirect 34 percent interest in Belgacom Austria.²³
- (2) Belgacom S.A. ("Belgacom" or "Belgacom S.A.") (Belgium). Belgacom S.A. is the incumbent telecommunications operator in Belgium. SBC, through Ameritech Corporation ("Ameritech"), holds two separate ownership interests in ADSB Telecommunications B.V. ("ADSB"), which in turn owns slightly less than 50 percent of Belgacom S.A. SBC holds (1) a 35 percent non-controlling interest in ADSB and (2) a 41.6 percent *de facto* controlling interest in TDC A/S, which in turn holds a 33 percent non-controlling interest in ADSB. In the *SBCS Texas International 214 Order*, the Telecommunications Division of the International Bureau held that, because SBC's minority interest in TDC A/S is a *de facto* controlling interest, TDC A/S's entire 33 percent interest in ADSB should be attributed to SBC. SBC's resulting 34 percent total interest in Belgacom S.A., thus, constitutes a foreign affiliation under the Commission's Rules.²⁴
- (3) Proximus (Belgium). Proximus is a GSM mobile wireless carrier in Belgium. Belgacom S.A., in which SBC holds a 34 percent indirect interest, holds a 75 percent controlling interest in Proximus. As of March 31, 2001, Proximus had fewer than 4 million customers.²⁵

²⁰ *Id.* § 63.09(e).

²¹ *Id.* § 63.09(d).

²² This interest is described below in the entry for Belgacom S.A.'s operations in Belgium.

²³ See *Southwestern Bell Communications Servs., Inc., et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20010706-00034, at 1-5, 8 (filed July 6, 2001) ("*July 6, 2001 Notification*").

²⁴ *SBCS Texas International 214 Order*, 15 FCC Rcd. at 11728 ¶ 21.

²⁵ See *Southwestern Bell Communications Servs., Inc. et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20011018-00050, at 2-4, 8-9 (filed Oct. 18, 2001).

- (4) Ameritech Communications International, Inc. (“ACII”) (Canada). ACII is an indirect, wholly owned subsidiary of Ameritech. As a consequence, SBC holds a controlling interest in ACII. ACII has received authorization to provide international telecommunications services in Canada and, therefore, is a foreign carrier, as that term is defined in Section 63.09(d) of the Commission’s Rules.²⁶ The Telecommunications Division of the International Bureau held in the *SBCS Texas International 214 Order* that ACII lacks market power in Canada.²⁷
- (5) Contactel, s.r.o. (“Contactel”) (Czech Republic). Through a 50/50 joint venture between TDC A/S and Ceske Radiokomunikace, SBC holds an indirect controlling interest of about 65 percent in Contactel, a provider of competitive data and Internet services in the Czech Republic.²⁸
- (6) TDC A/S (f/k/a Tele Danmark) A/S (Denmark). TDC A/S is a local exchange telephone carrier in Denmark authorized to provide, among other services, international telecommunications services to the public. Through an indirect subsidiary, Ameritech (and therefore SBC) indirectly holds a 41.6 percent, *de facto* controlling interest in TDC A/S.
- (7) Belgacom Deutschland GmbH (“Belgacom Deutschland”) (Germany). Belgacom Deutschland, a competitive carrier in Germany, is a wholly owned subsidiary of Belgacom S.A. Therefore, through SBC’s indirect 34 percent interest in Belgacom S.A., SBC also holds an indirect 34 percent interest in Belgacom Deutschland.²⁹
- (8) Talkline GmbH (“Talkline”) (Germany). Talkline is authorized to provide fixed and mobile communications services in Germany. TDC A/S wholly owns Talkline. Consequently, SBC, through Ameritech, holds an indirect controlling interest in Talkline. Talkline has less than a 50 percent market share of the international transport and local access markets in Germany. The Commission has held that Talkline lacks market power in Germany and the Netherlands,³⁰ and that SBC subsidiaries, such as Applicant, are

²⁶ 47 C.F.R. § 63.09(d).

²⁷ *SBCS Texas International 214 Order*, 15 FCC Rcd. at 11726 ¶ 15.

²⁸ See *Southwestern Bell Communications Servs., Inc., et al.*, Notification of Foreign Affiliation & Request for Change in Regulatory Status, File No. FCN-NEW-20000913-00056, at 4-5, 10 (filed Sept. 13, 2000) (“*September 13, 2000 Notification*”).

²⁹ See *Southwestern Bell Communications Servs., Inc. et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20001019-00059, at 2-3, 5 (filed Oct. 19, 2000) (“*October 19, 2000 Notification*”).

³⁰ Subsequently, Talkline discontinued its operations in the Netherlands.

entitled to regulation as non-dominant carriers along the U.S.-Germany route.³¹

- (9) Belgacom U.K. Limited (“Belgacom U.K.”) (Great Britain). Belgacom U.K., a competitive carrier in Great Britain, is a wholly owned subsidiary of Belgacom S.A. Therefore, through SBC’s indirect 34 percent interest in Belgacom S.A., SBC also holds an indirect 34 percent interest in Belgacom U.K.³²
- (10) Belgacom S.A. (Greece). Belgacom S.A. has received a General Authorisation from the Greek government for telecommunications services. When applying for its General Authorisation, Belgacom S.A. stated its intent to provide wholesale routing of international voice traffic from other licensed operators in Greece, as well as international wholesale bandwidth, IP transit, international leased lines and data transmission services such as ATM, Frame Relay, and IP virtual private network services, to certain select business customers. However, Belgacom S.A.’s operations in Greece have been suspended. As discussed above,³³ SBC has an indirect 34 percent interest in Belgacom S.A.³⁴
- (11) Belgacom China Ltd. (“Belgacom China”) (Hong Kong). Belgacom China has entered the telecommunications market in Hong Kong as a provider of international wholesale transmission services to other carriers and as a provider of data services. Belgacom China is a wholly owned subsidiary of Belgacom S.A. Therefore, through SBC’s indirect 34 percent interest in Belgacom S.A., SBC also holds an indirect 34 percent interest in Belgacom China.³⁵
- (12) Hungarian Telephone and Cable Corporation (“HTCC”) (Hungary). HTCC provides fixed-line local service in five non-metropolitan areas of Hungary. TDC A/S has a 31.9 percent interest in HTCC. Consequently,

³¹ *SBC/Ameritech Merger Order*, 14 FCC Rcd. at 14933 ¶ 537; *see also SBCS Texas International 214 Order*, 15 FCC Rcd. at 11725 ¶ 13.

³² *See October 19, 2000 Notification* at 2-3, 5.

³³ *See the entry for Belgacom S.A.’s operations in Belgium.*

³⁴ *See Southwestern Bell Communications Servs., Inc. et al.*, Notification of Foreign Carrier Affiliation in Greece and Update of Authorizations, File No. FCN-NEW-20020307-00017, at 2-3, 6-7 (filed Mar. 7, 2002).

³⁵ *See Southwestern Bell Communications Servs., Inc. et al.*, Update of International Section 214 Application of SBCS and Notification of Foreign Affiliation in Hong Kong, File No. FCN-NEW-20010927-00048, at 2-3, 6-7 (filed Sept. 27, 2001).

through TDC A/S, SBC indirectly owns a 31.9 percent attributed interest in HTCC.³⁶

- (13) Belgacom Italia S.r.l. (“Belgacom Italia”) (Italy). Belgacom Italia has entered the telecommunications market in Italy as a provider of international wholesale transmission services to other carriers and as a provider of data services. Belgacom Italia is a wholly owned subsidiary of Belgacom S.A. Therefore, through SBC’s indirect 34 percent interest in Belgacom S.A., SBC also holds an indirect 34 percent interest in Belgacom Italia.³⁷
- (14) Belgacom Japan, KK. (“Belgacom Japan”) (Japan). Belgacom Japan has entered the telecommunications market in Japan as a provider of data services and international wholesale transmission services to other carriers. Belgacom Japan is a wholly owned subsidiary of Belgacom S.A. Therefore, through SBC’s indirect 34 percent interest in Belgacom S.A., SBC also holds an indirect 34 percent interest in Belgacom Japan.³⁸
- (15) UAB Mobilios Telekomunikacijos (“Bité”) (Lithuania). Bité is authorized to provide wireless services in Lithuania and is a wholly owned subsidiary of TDC A/S. Consequently, Ameritech (and therefore SBC) holds an indirect, controlling interest in Bité. Bité has less than a 50 percent market share in the international transport and local access markets in Lithuania. The Commission has held that Bité lacks market power in Lithuania and that SBC subsidiaries, such as Applicant, are entitled to regulation as non-dominant carriers on the U.S.-Lithuania route.³⁹
- (16) Belgacom Nederland B.V. (“Belgacom Nederland”) (the Netherlands). Belgacom Nederland, a competitive carrier in the Netherlands, is a wholly owned subsidiary of Belgacom S.A. Therefore, through SBC’s indirect 34 percent interest in Belgacom S.A., SBC also holds an indirect 34 percent interest in Belgacom Nederland.⁴⁰

³⁶ See *Southwestern Bell Communications Servs., Inc. et al.*, Notification of Foreign Carrier Affiliation in Hungary and Update of Authorizations, File No. FCN-NEW-20020830-00034, at 1-2, 4 (filed Aug. 30, 2002).

³⁷ See *Southwestern Bell Communications Servs., et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20010228-00007, at 1-3, 6 (filed Feb. 28, 2001).

³⁸ See *Southwestern Bell Communications Servs., Inc. et al.*, Notification of Foreign Carrier Affiliation in Japan and Update of Authorizations, File No. FCN-NEW-20011121-00059, at 1-3, 6-7 (filed Nov. 21, 2001).

³⁹ *SBC/Ameritech Merger Order*, 14 FCC Rcd. at 14934 ¶ 538; see also *SBCS Texas International 214 Order*, 15 FCC Rcd. at 11725 ¶ 13.

⁴⁰ See *October 19, 2000 Notification* at 2-3, 5.

- (17) TDC-Norge (f/k/a/ Internordia f/k/a ElTele Ost) (Norway). TDC A/S has 100 percent ownership of Internordia, which provides competitive fixed network, broadband, and Internet services in Norway. TDC-Norge currently has less than 50 percent market share in the international transport and local access markets in Norway. In view of this small share, the Telecommunications Division of the International Bureau held in the *SBCS Texas International 214 Order* that the former Internordia lacks market power in Norway and, therefore, that SBC subsidiaries are entitled to non-dominant carrier regulation on the U.S.-Norway route.⁴¹
- (18) Belgacom Portugal S.A. (“Belgacom Portugal”) (Portugal). Belgacom Portugal, a competitive carrier in Portugal, is a wholly owned subsidiary of Belgacom S.A. Therefore, through SBC’s indirect 34 percent interest in Belgacom S.A., SBC also holds an indirect 34 percent interest in Belgacom Portugal.⁴²
- (19) Belgacom Asia Pte Ltd. (“Belgacom Asia”) (Singapore). Belgacom Asia, a competitive carrier in Singapore, is a wholly owned subsidiary of Belgacom S.A. Therefore, through SBC’s indirect 34 percent interest in Belgacom S.A., SBC also holds an indirect 34 percent interest in Belgacom Asia.⁴³
- (20) Telkom South Africa Ltd. (“Telkom S.A.”) (South Africa). Telkom S.A. is the incumbent telecommunications carrier in South Africa. A consortium formed between Telekom Malaysia Berhad and SBC International Transatlantic, LLC (“SBCIT”) owns 30 percent of Telkom S.A; SBCIT, which is a wholly owned, indirect subsidiary of SBC, owns 60 percent of that consortium. Prior to the acquisition by this consortium, Telkom S.A. was completely state-owned.

⁴¹ *SBCS Texas International 214 Order*, 15 FCC Rcd. at 11726 ¶ 15. The Telecommunications Division also held in the *SBCS Texas International 214 Order* that SBC’s interest (through Ameritech) in NetCom ASA, a competitive wireless carrier authorized to provide GSM mobile telecommunications services in Norway, did not warrant dominant carrier regulation on the U.S.-Norway route. *Id.* at 11726 ¶ 14. SBC subsequently divested its interest in NetCom; thus, it no longer is affiliated with that carrier, see *September 13, 2000 Notification* at 2-3, as the International Bureau has recognized, *In re Applications of SBC Communications Inc. & BellSouth Corp.*, Memorandum Opinion and Order, 15 FCC Rcd. 25459, 25475 ¶ 36 n.93 (WTB/IB 2000).

⁴² See *Southwestern Bell Communications Servs., et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20010403-00016, at 1-6, 9 (filed Apr. 3, 2001) (“*April 3, 2001 Notification*”).

⁴³ See *id.* at 1-6, 9.

- (21) Belgacom Spain SL (“Belgacom Spain”) (Spain). Belgacom Spain has entered the telecommunications market in Spain as a provider of international wholesale transmission services to other carriers and as a provider of data services. Belgacom Spain is wholly owned by Belgacom S.A. Therefore, through SBC’s indirect 34 percent interest in Belgacom S.A., SBC also holds an indirect 34 percent interest in Belgacom Spain.⁴⁴
- (22) Belgacom Sweden AB (Sweden). Belgacom Sweden has entered the telecommunications market in Sweden as a provider of international wholesale transmission services to other carriers and as a provider of data services. Belgacom Sweden is wholly owned by Belgacom S.A. Therefore, through SBC’s indirect 34 percent interest in Belgacom S.A., SBC also holds an indirect 34 percent interest in Belgacom Sweden.⁴⁵
- (23) Belgacom Schweiz AG (Switzerland). Belgacom Schweiz has entered the telecommunications market in Switzerland as a provider of international wholesale transmission services to other carriers and as a provider of data services. Belgacom Schweiz is wholly owned by Belgacom S.A. Therefore, through SBC’s indirect 34 percent interest in Belgacom S.A., SBC also holds an indirect 34 percent interest in Belgacom Schweiz.⁴⁶
- (24) TDC Switzerland (Switzerland). Formed through the merger of Sunrise Communications A.G. and diAx Holding AG, TDC Switzerland provides fixed and wireless voice, data, and Internet services in Switzerland. TDC A/S owns 100 percent of TDC Switzerland, so SBC has an indirect 41.6 percent interest in the latter company.⁴⁷

Of the foreign carriers affiliated with Applicant through SBC, only ACII

(Canada), Talkline (Germany), Bité (Lithuania), and TDC-Norge (Norway) have received Commission determinations that they do not have market power in their home markets.⁴⁸

⁴⁴ See *Southwestern Bell Communications Servs., et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20010221-00003, at 1-3, 7 (filed Feb. 16, 2001).

⁴⁵ See *July 6, 2001 Notification* at 1-5, 8.

⁴⁶ See *April 3, 2001 Notification* at 1-6, 8-9.

⁴⁷ See *Southwestern Bell Communications Servs., et al.*, Notification of Foreign Affiliation, File No. FCN-NEW-20010917-00046, at 1-2, 6 (filed Sept. 17, 2001).

⁴⁸ See *SBCS Texas International 214 Order*, 15 FCC Rcd. at 11726 ¶ 15 (ACII in Canada and TDC-Norge in Norway); *SBC/Ameritech Merger Order*, 14 FCC Rcd. at 14933-34 ¶¶ 537-38 (Talkline in Germany (as well as the Netherlands, where Talkline no longer operates) and Bité in Lithuania).

However, it has not confronted the question with respect to Belgacom Austria (Austria), Proximus (Belgium), Contactel (Czech Republic), Belgacom Deutschland (Germany), Belgacom U.K. (Great Britain), Belgacom-Greece (Greece), HTCC (Hungary), Belgacom Italia (Italy), Belgacom Japan (Japan), Belgacom Nederland (the Netherlands), Belgacom Portugal (Portugal), Belgacom Asia (Singapore), Belgacom Spain (Spain), Belgacom Sweden (Sweden), Belgacom Schweiz (Switzerland), or TDC Switzerland (Switzerland). As competitive entrants or mobile carriers, none of these carriers approaches a 50 percent market share in the international transport and local access markets in their home countries, each of which is a member of the WTO. Moreover, as mobile wireless carriers, neither Proximus nor Bité raises market power concerns.⁴⁹ Therefore, Applicant is entitled to a presumption of non-dominant status on the routes between the United States and Austria, Canada,⁵⁰ Czech Republic, Germany, Great Britain, Greece, Hungary, Italy, Japan, Lithuania, the Netherlands, Portugal, Singapore, Spain, Sweden, and Switzerland.⁵¹

⁴⁹ See 1998 Biennial Regulatory Review – Review of Int’l Common Carrier Regulations, Report and Order, 14 FCC Rcd. 4909, 4922 ¶ 29 (1999) (“1998 Biennial Review”).

⁵⁰ As discussed below, Applicant also is affiliated with another Canadian carrier through ATTWS, but that affiliation also qualifies Applicant for a presumption of non-dominance on the U.S.-Canada route.

⁵¹ See 47 C.F.R. § 63.10(a)(3); *In re Rules & Policies on Foreign Participation in the U.S. Telecomms. Mkt.; Mkt. Entry & Regulation of Foreign-Affiliated Entities*, Report and Order and Order on Reconsideration, 12 FCC Rcd. 23891, 23959-62 ¶¶ 161-62 (1997). As stated above, Applicant certifies that it will comply with the Commission’s dominant carrier regulations for inbound traffic on the U.S.-Belgium route because of Applicant’s affiliation in Belgium with Belgacom. Otherwise, Applicant would be entitled to a presumption of non-dominance with respect to Proximus.

Applicant certifies that, by virtue of the ownership interests of ATTWS or ATTWS's other subsidiaries, it is affiliated, as that term is defined in Section 63.09(e) of the Commission's Rules,⁵² with the following foreign carriers, as that term is defined in Section 63.09(d).⁵³ ATTWS directly or indirectly holds a controlling interest in, with at least 25 percent of the equity of, each of these carriers.

- (1) Antigua Wireless Ventures Limited ("Antigua Wireless Ventures") (Antigua & Barbuda). Antigua Wireless Ventures is an authorized provider of mobile services in Antigua & Barbuda.
- (2) Cellular Communications (Barbados) SRL ("CCB") (Barbados). CCB is an authorized operator of a mobile telecommunications network in Barbados.
- (3) Telecommunications (Bermuda & West Indies) Limited ("Telecom Bermuda") (Bermuda). Telecom Bermuda is an authorized provider of mobile services in Bermuda.
- (4) Rogers Wireless Communications, Inc. ("Rogers Wireless") (Canada). Rogers Wireless is an authorized provider of mobile services in Canada.
- (5) Wireless Ventures (Cayman Islands) Ltd. ("WVCIL") (the Cayman Islands) is an authorized provider of mobile telephony in the Cayman Islands.
- (6) Communications Systems Curaçao N.V. ("CSC") (Curaçao, Netherlands Antilles). CSC is an authorized provider of a public mobile telecommunications network in Curaçao, Netherlands Antilles.
- (7) Wireless Ventures (Dominica) Ltd. ("WVDL") (Dominica). WVDL is an authorized operator of a public cellular mobile telecommunications network and provider of public cellular mobile telecommunications services in the Commonwealth of Dominica.
- (8) Grenada Wireless Holdings Ltd. ("GWHL") (Grenada). GWHL is an authorized operator of a public cellular mobile telecommunications

⁵² 47 C.F.R. § 63.09(e).

⁵³ *Id.* § 63.09(d).

network and provider of public cellular mobile telecommunications services in Grenada.

- (9) BPL Cellular Communications Limited (“BPL Cellular”) (India). BPL Cellular is an authorized provider of mobile services in India.
- (10) IDEA Cellular Limited (“IDEA”) (India). IDEA is an authorized provider of mobile services in India.
- (11) Wireless Ventures (St. Lucia) Limited (“St. Lucia Wireless Ventures”) (Saint Lucia). St. Lucia Wireless Ventures is an authorized provider of mobile services in St. Lucia.
- (12) Wireless Ventures (St. Vincent) Ltd. (“St. Vincent Wireless Ventures”) (Saint Vincent & the Grenadines). St. Vincent Wireless Ventures is an authorized provider of mobile services in Saint Vincent & the Grenadines.

The Commission has not determined whether any of the foreign carriers affiliated with Applicant through ATTWS has market power in its home market. However, as mobile carriers, none of these carriers raises market power concerns⁵⁴ or approaches a 50 percent market share in the international transport and local access markets in its home country.⁵⁵ Moreover, each of their home countries is a member of the WTO.⁵⁶ Therefore, Applicant is entitled to a presumption of non-dominant status on the routes between the United States and Antigua & Barbuda; Barbados; Bermuda; Canada;⁵⁷ the

⁵⁴ See *1998 Biennial Review*, 14 FCC Rcd. at 4922 ¶ 29.

⁵⁵ Indeed, WVCIL, CSC, WVDL, and GWHL are not yet operating.

⁵⁶ As noted above, although Bermuda and the Cayman Islands are not themselves members of the WTO, the United Kingdom’s membership is deemed to cover them. See note 14 above and the sources cited therein.

⁵⁷ As discussed above, Applicant also is affiliated with a Canadian carrier through SBC; however, the Telecommunications Division of the International Bureau has determined that that carrier lacks market power in Canada. Accordingly, Applicant remains qualified for non-dominant status on the U.S.-Canada route.

Cayman Islands; Curaçao, Netherlands Antilles; Dominica; Grenada; Saint Lucia; and Saint Vincent & the Grenadines.⁵⁸

(j) Pursuant to Section 63.18(j) of the Commission's Rules,⁵⁹ Applicant certifies that it does not seek to provide international telecommunications services to any destination country in which it is a foreign carrier or controls a foreign carrier.

Applicant further certifies that SBC and ATTWS are the only entities which either (together or separately) own more than 25 percent of, or control, Applicant and that it seeks to serve certain destination countries in which SBC or ATTWS controls a foreign carrier. These foreign carriers and destination countries are

- (1) Antigua Wireless Ventures (Antigua & Barbuda);
- (2) CCB (Barbados);
- (3) Telecom Bermuda (Bermuda);
- (4) ACII (Canada);
- (5) WVCIL (the Cayman Islands);
- (6) CSC (Curaçao, Netherlands Antilles);
- (7) Contactel (Czech Republic);
- (8) TDC A/S (Denmark);
- (9) WVDL (Dominica);
- (10) Talkline (Germany);
- (11) GWHL (Grenada);
- (12) Bité (Lithuania);

⁵⁸ See 47 C.F.R. § 63.10(a)(3).

⁵⁹ *Id.* § 63.18(j).

- (13) TDC-Norge (f/k/a/ Internordia f/k/a EITele Ost) (Norway);
- (14) St. Lucia Wireless Ventures (Saint Lucia);
- (15) St. Vincent Wireless Ventures (Saint Vincent & the Grenadines); and
- (16) TDC Switzerland (Switzerland).

(k) Pursuant to Section 63.18(k) of the Commission's Rules,⁶⁰ Applicant states that (1) each of the destination countries listed in the preceding response to Subsection (j) is a member of the WTO and (2) Applicant's affiliated foreign carriers for all such countries but Denmark lack market power as demonstrated in the response to Subsection (i) above.

(l) Applicant proposes to resell the international switched services of unaffiliated U.S. carriers for the purpose of providing global international communications services. In Antigua & Barbuda; Austria; Barbados; Belgium (two); Bermuda; Canada (two); the Cayman Islands; Curaçao, Netherlands Antilles; Czech Republic; Denmark; Dominica; Germany (two); Great Britain; Grenada; Greece; Hong Kong; Hungary; India (two); Italy; Japan; Lithuania; the Netherlands; Norway; Portugal; Saint Lucia; Saint Vincent & the Grenadines; Singapore; South Africa; Spain; Sweden; and Switzerland (two), Applicant has one or more foreign affiliations as defined by Section 63.09(e) of the Commission's Rules.⁶¹ Pursuant to Section 63.18(l) of those Rules,⁶² Applicant provides the following information with respect to the foreign carriers with which it has an affiliation and as to which it either satisfies Section 63.10(a)(3) of

⁶⁰ *Id.* § 63.18(k).

⁶¹ *Id.* § 63.09(e).

⁶² *Id.* § 63.18(l).

the Commission's Rules,⁶³ or will file the quarterly traffic reports required by Section 43.61(c) of the Rules.⁶⁴

As discussed above in the response to Subsection (i), Applicant's affiliated foreign carriers in Antigua & Barbuda; Austria; Barbados; Bermuda; Canada; the Cayman Islands; Curaçao, Netherlands Antilles; Czech Republic; Dominica; Germany; Great Britain; Greece; Grenada; Hong Kong; Hungary; India; Italy; Japan; Lithuania; the Netherlands; Norway; Portugal; Saint Lucia; Saint Vincent & the Grenadines; Singapore; Spain; Sweden; and Switzerland lack a 50 percent market share in the international transport and local access markets in their countries. Accordingly, pursuant to Section 63.10(a)(3) of the Commission's Rules,⁶⁵ Applicant is presumptively non-dominant with respect to the routes between the United States and those countries. In addition, the Commission previously has held that certain of these affiliated foreign carriers lack market power in the countries where they operate.⁶⁶

For the remaining three routes for which Applicant has an affiliated foreign carrier, the U.S.-Belgium, U.S.-Denmark, and U.S.-South Africa routes, Applicant cannot

⁶³ *Id.* § 63.10(a)(3).

⁶⁴ *Id.* § 43.61(c).

⁶⁵ *Id.* § 63.10(a)(3).

⁶⁶ See *SBCS Texas International 214 Order*, 15 FCC Rcd. at 11726 ¶ 15 (ACII in Canada and TDC-Norge in Norway); *SBC/Ameritech Merger Order*, 14 FCC Rcd. at 14933-34 ¶¶ 537-38 (Talkline in Germany (as well as the Netherlands, where Talkline no longer operates) and Bité in Lithuania).

satisfy Section 63.10(a)(3).⁶⁷ With respect to those three routes, Applicant will file the quarterly traffic reports required by Section 43.61(c) of the Rules.⁶⁸

(m) Pursuant to Section 63.18(m) of the Commission's Rules,⁶⁹ and in accordance with the standards set forth in Section 63.10 of those Rules,⁷⁰ Applicant hereby requests that it be treated as non-dominant for the provision of all international communications services to Antigua & Barbuda; Austria; Barbados; Bermuda; Canada; the Cayman Islands; Curaçao, Netherlands Antilles; Czech Republic; Dominica; Germany; Great Britain; Greece; Grenada; Hong Kong; Hungary; India; Italy; Japan; Lithuania; the Netherlands; Norway; Portugal; Saint Lucia; Saint Vincent & the Grenadines; Singapore; Spain; Sweden; and Switzerland and for the provision of outbound international communications services to Belgium, Denmark, and South Africa.

As discussed in the response to Subsection (i), Applicant's affiliated foreign carriers in Antigua & Barbuda; Austria; Barbados; Bermuda; Canada; the Cayman Islands; Curaçao, Netherlands Antilles; Czech Republic; Dominica; Germany; Great Britain; Greece; Grenada; Hong Kong; Hungary; India; Italy; Japan; Lithuania; the Netherlands; Norway; Portugal; Saint Lucia; Saint Vincent & the Grenadines; Singapore;

⁶⁷ 47 C.F.R. § 63.10(a)(3).

⁶⁸ *Id.* § 43.61(c). However, as noted above, since Applicant is a Commercial Mobile Radio Service ("CMRS") carrier as defined by Section 20.9 of the Commission's Rules, *id.* § 20.9, and merely resells the international switched services of other carriers, *see 2002 Biennial Regulatory Review Staff Report*, 18 FCC Rcd. at 4211 ¶ 36 (classifying such roaming services as resale), Section 43.61(c) does not require Applicant to file any quarterly traffic report. *See* 47 C.F.R. § 43.61(c) (exempting CMRS carriers that provide international resale service from filing quarterly traffic reports).

⁶⁹ 47 C.F.R. § 63.18(m).

⁷⁰ *Id.* § 63.10.

Spain; Sweden; and Switzerland all lack a 50 percent market share in the international transport and local access markets in their home countries. Therefore, Applicant is presumptively non-dominant with respect to the routes between the United States and those countries pursuant to Section 63.10(a)(3) of the Commission's Rules.⁷¹ In addition, all of those countries are WTO members;⁷² to the extent Applicant has outbound international traffic with these countries, it consists of the resold service of unaffiliated U.S. carriers. Thus, with respect to that traffic, Applicant qualifies as non-dominant pursuant to Section 63.10(a)(4).⁷³

Applicant's remaining affiliated foreign carriers are in Belgium, Denmark, and South Africa, all of which are WTO members. To the extent Applicant has outbound international traffic with these countries, it also consists of the resold service of unaffiliated U.S. carriers. Thus, with respect to that traffic, Applicant also qualifies as non-dominant pursuant to Section 63.10(a)(4).⁷⁴ Finally, Applicant agrees to classification as a dominant carrier on the U.S.-Belgium, U.S.-Denmark, and U.S.-South Africa routes for any inbound traffic generated by its customers who are roaming in these countries.⁷⁵

⁷¹ *Id.* § 63.10(a)(3).

⁷² As noted above, although Bermuda and the Cayman Islands are not themselves members of the WTO, the United Kingdom's membership is deemed to cover them. *See* note 14 above and the sources cited therein.

⁷³ 47 C.F.R. § 63.10(a)(4).

⁷⁴ *Id.*

⁷⁵ However, as noted above, since Applicant is a Commercial Mobile Radio Service ("CMRS") carrier as defined by Section 20.9 of the Commission's Rules, *id.* § 20.9, and merely resells the international switched services of other carriers, *see 2002 Biennial Regulatory Review Staff Report*, 18 FCC Rcd. at 4211 ¶ 36 (classifying such roaming

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RESPONSE TO QUESTION 12:

Applicant seeks authority to provide service to the following destinations described in Paragraphs (1) through (4) of Section 63.18(j) of the Commission's Rules:⁷⁶

- (1) Antigua & Barbuda;
- (2) Barbados;
- (3) Bermuda;
- (4) Canada;
- (5) the Cayman Islands;
- (6) Curaçao, Netherlands Antilles;
- (7) Czech Republic;
- (8) Denmark;
- (9) Dominica;
- (10) Germany;
- (11) Grenada;
- (12) Lithuania;
- (13) Norway;
- (14) Saint Lucia;
- (15) Saint Vincent & the Grenadines; and
- (16) Switzerland.

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services as resale), dominant carrier classification imposes no additional requirements on Applicant. *See* 47 C.F.R. § 43.61(c) (exempting CMRS carriers that provide international resale service from filing quarterly traffic reports).

⁷⁶ 47 C.F.R. § 63.18(j)(1)-(4).

RESPONSE TO QUESTION 13:

Applicant seeks authority to provide service to the following destinations not described in Paragraphs (1) through (4) of Section 63.18(j) of the Commission's Rules⁷⁷ but where Applicant has an affiliation with a foreign carrier within the meaning of Section 63.09(e) of those Rules:⁷⁸

- (1) Austria,
- (2) Belgium,
- (3) Great Britain,
- (4) Greece,
- (5) Hong Kong,
- (6) Hungary,
- (7) India;
- (8) Italy,
- (9) Japan,
- (10) the Netherlands,
- (11) Portugal,
- (12) Singapore,
- (13) South Africa,
- (14) Spain, and
- (15) Sweden.

⁷⁷ *Id.* § 63.18(j)(1)-(4).

⁷⁸ *Id.* § 63.09(e).

RESPONSE TO QUESTION 15:

(d) Applicant has been unable to locate in either its or the Commission's records an international Section 214 authorization that has been granted to Applicant.

(e)(3) Applicant does not request authority under Section 63.18(e)(3) of the Commission's Rules.⁷⁹

(g) Applicant is not requesting facilities-based authority, so no response is required to Section 63.18(g) of the Commission's Rules.⁸⁰

⁷⁹ *Id.* § 63.18(e)(3).

⁸⁰ *Id.* § 63.18(g).